

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

**In re:
Bonita K Wiech,**

Debtor.

Bky Case No.: 04-30420

Chapter 7

MBNA America Bank, N.A.,

Plaintiff,

Adv. Pro. No. _____

vs.

**COMPLAINT TO DETERMINE
DISCHARGEABILITY OF DEBT**

Bonita K Wiech,

Defendant.

**MBNA America Bank, N.A., by and through its counsel David Hoiland, hereby
represents as follows:**

- 1. The Court has jurisdiction to hear this complaint pursuant to 28 U.S.C.
157(a), (b)(1), (b)(2)(I) (core proceeding), 1334(b), and 11 U.S.C. 523(c).**
- 2. On 01/23/2004, Defendant filed a voluntary petition for relief under
Chapter 7 of the Bankruptcy Code.**
- 3. Plaintiff is the holder of an unsecured claim against Defendant arising
from credit card account number 5490351548508715.**
- 4. Between 09/04/2003 and 09/05/2003, the Defendant accumulated in
excess of \$8,500.00 in retail charges toward this account.**
- 5. By the date the bankruptcy was filed, Defendants owed \$25,882.47 on this
account.**

6. Use of a credit card account constitutes an implied promise that the Defendants have the intention and ability to repay.
7. Plaintiff relied upon Defendant express and implied representation of present intent and ability to repay.
8. Accordingly, Plaintiff is entitled to judgment that this debt is excepted from discharge pursuant to 11 U.S.C. § 523(a)(2)(A).
9. The Cardholder Agreement in effect between the parties requires Defendant to pay costs of collection, including reasonable attorney fees.

WHEREFORE, MBNA America Bank, N.A., prays for judgment as follows:

- A. For money judgment against Defendant jointly and severally in the amount \$8,500.00 as of 09/05/2003;
- B. That the Court except from discharge its claim against Defendants in the amount of \$8,500.00 plus interest, finance charges and attorney fees in accordance with the Cardholder Agreement of the parties; and
- C. That the Court order such other such relief as it may deem appropriate.

Respectfully submitted,

**/e/David Jon Hoiland
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